
LEGISLATIVE UPDATE

Prepared for OAFP

February 9, 2020

HJR 202 – Health Care is a Right

This bill amends the Oregon Constitution to say affordable health care is a right. If passed, it would go to voters on the November 2020 ballot.

Rep. Mitch Greenlick (D-Portland) has been working on this concept for 15 years. This version adds language requiring the state to balance the obligation to ensure health care with funding public schools and other essential service.

One supporter testified saying, “When health care is not a fundamental right, it is delayed and that is costly to all of us.”

HB 4005 – Gun Storage

Gun owners would be required to keep their firearms in a locked container, or use trigger or cable locks for storage. If a gun is not locked and is stolen, the theft must be reported within 72 hours. If the theft is not reported and the gun is used to injure someone, the gun owner would be liable.

Supporters, including Moms Demand Action, say this will encourage responsible behavior and make sure people are held accountable. They say an average of one person dies from gun violence every day in Oregon. They call HB 4005 a public health response to a public health crisis. As one said, “Secure it in order to deter it.”

Opponents, including the Oregon Firearms Federation, said the bill will “devastate youth shooting programs, deny young Oregonians the ability to defend themselves and their families, and punish the victims of theft.” Others described it as a “violation of their Second Amendment rights” and “treasonous.”

HB 4078 – Online Vape Sale Ban

Despite the legislature approving a bill to raise the purchasing age of vape products to 21, minors easily circumvent this by purchasing vape products online and over the phone, says Rep. Pam Marsh (D-Ashland). This bill would close those loopholes.

Attorney General Ellen Rosenblum says that kids are attracted to flavors such as “I love cookies,” as well as vapes that look like USB flash drives, making them easier to hide. This bill also gives the Department of Justice enforcement abilities over remote sales to wholesalers and retailers.

Edward Wiggins, a local vape shop owner in Salem, supports the bill, saying it is common sense. But four other shop owners and advocates testified in opposition.

SB 1577 – Vaping Flavor Ban

Sen. Laurie Monnes Anderson (D-Gresham) and Rep. Cheri Helt (R-Bend) are proposing legislation that would ban all flavored vape products except tobacco flavor. The bill exempts products that are USDA approved for tobacco cessation, though no vape products are currently approved.

Some advocates call for even stronger legislation, prompting a handful of amendments for consideration. They go further in a variety of ways – for example, one would require retailers to be licensed in the state. Others would like to see menthol cigarettes and other flavored tobacco products included.

Sen. Monnes Anderson says she does not know if she has the votes in the Senate to pass any of the amendments.

Opponents have proposed alternative policies that seek to make it more difficult for minors to obtain vape products. For example, one would require retailers to prohibit entry to anyone under 21 in lieu of a flavor ban. Another would require retailers to be licensed by the state. Others say that banning the small, easily concealed vapes popular with kids is an option, leaving larger, more expensive vapes (and various flavors) available.

HB 4102 – Prior Authorization and Step Therapy

Sen. Bill Hansell (R-Athena) and Rep. Rachel Prusak (D- West Linn) sponsored legislation brought forward by a large coalition of physician groups and patient advocates seeking to put some sideboards on how commercial insurers utilize prior authorizations and step therapy.

The bill makes a number of changes to utilization management practices including:

- Extends prior authorizations to 90 days.
- Requires treatments, drugs and devices that require a prior authorization to be posted on payers' websites.
- Requires insurers create electronic prior authorization portals.
- Requires commercial insurers to issue an explanation of denial using plain language.
- Prohibits insurers from altering utilization review requirements without a 60-day advance notice.
- Extends step therapy history to previous coverage.

Health insurers are neutral on the bill.

HB 4073 – Caps Insulin Copay

Supporters say one in four Oregon diabetics report rationing their insulin by using less than the recommended dose to save money. The Oregon Health Authority estimates that 287,000 adult Oregonians have diabetes.

Rationing insulin can have serious health effects.

Rep. Rachel Prusak (D-West Linn), who is a nurse practitioner, said, “When diabetics don’t have access to their insulin, this is how their kidneys fail. This is how they become blind. This is how they have a wound that doesn’t heal and results in amputations.”

Laura Keller, American Diabetes Association, testified that hospital costs related to diabetes jumped from \$44 million in 2012 to \$74 million last year.

This bill caps the copay for an insulin prescription at \$100.

Providence projects that the cost savings from avoiding hospitalizations and adverse events will offset increased costs to their insurance plans.

HB 4082 – Behavioral Health Roadmap

House Behavioral Health Committee chair Mitch Greenlick’s (D-Portland) behavioral health roadmap bill has wide committee support. HB 4082 creates a commission to:

- Define the ideal behavioral health system
- Detail elements of the existing system

- Establish current government and private expenditures on behavioral health, and those funding sources
- Create a roadmap to get Oregon closer to its ideal behavioral health system over the next decade
- Make policy and budget recommendations to the governor and legislature prior to every long session.

Reports would be due in the fall of every even year, starting in November 2020.

The commission includes:

- The chairs of the legislative mental health and behavioral health committees, the co-chairs of health and human services subcommittee of ways and means
- Legislators appointed by House and Senate minority leaders
- The Director of Behavioral Health programs at OHA
- 12 non-legislative members selected by the Speaker of the House
- The Speaker of the House and Senate President

A proposed amendment would also include the Chief Justice of the Oregon Supreme Court.

A behavioral health patient advocate and provider asked for an amendment to stipulate that 20% of commission members be consumers, so that grassroots voices are heard.

HB 4031 – Behavioral Health Workforce Report

This bill originally dealt with licensure for currently unlicensed councilors, like life coaches, hypnotherapists, sexologists and parenting coaches. The House Behavioral Health Committee narrowed the scope of HB 4031 to focus on workforce issues.

Rep. Andrea Salinas (D-Lake Oswego) says she wanted to simplify her bill for the short session. She plans on creating an interim workgroup to propose solutions for unlicensed counsellors in the 2021 session.

HB 4031 now tasks OHA with writing a report on Oregon's behavioral health workforce. The report will:

- Summarize the work already done on this issue.
- Clarify which providers provide which services, what providers Oregon will need in the next 7-10 years, what regions providers work in, and how close or far Oregon is from reaching those goals.
- Recommend how many and what type of providers can fill Oregon's unmet need.

The bill now goes to Ways and Means.

SB 1552 – Continue Certified Community Behavioral Health Clinics Pilot Project

The Senate Mental Health Committee heard testimony on SB 1552, which would continue funding for the Certified Community Behavioral Health Clinics (CCBHC) demonstration through the biennium.

OHA is in the process of evaluating the program. One CCBHC reports "tremendous outcomes," such as an 18% reduction in emergency department utilization and a 23% reduction in in-patient medical admissions.

Oregon is one of eight states to participate in the program, which receives a 4:1 federal-to-state match. If the legislature funds the program with \$15 million, it will bring in approximately \$65 million in federal funds. OHA is also requesting an additional staff member to evaluate the program.

OHA, the Association of Oregon Counties, AFSME, and two CCHBCs spoke in support of the bill.

SB 1553 – Barriers for Co-Occurring Behavioral Health and Addiction Disorders

The goal of this bill is to increase the efficacy and reduce the costs of treating mental health and substance abuse disorders by integrating care so patients can receive it at the same time and place. It requires OHA to write a report on existing barriers to treatment and suggest ways to improve access long-term, for example in working with higher education and accreditation boards.

SB 1553 would provide OHA a staff member to assess the rules and regulations that interfere with this integration, and a contractor to write the report.

The Policy Director of Oregon Recovers, a coalition of people in recovery, calls the bill “a first logical step in building capacity to treat people with substance abuse disorders and mental health diagnoses.”

The Senate Mental Health Committee plans on amending the bill to include people with developmental and intellectual disabilities, upon Sen. Sara Gelser’s (D-Corvallis) request.

HB 4149 – OHA Study of Alcohol and Drug Policy Commission’s Strategic Plan

“We have a massive issue with addiction and we’re not dealing with it,” Rep. Tawna Sanchez (D-Portland) told the House Behavioral Health Committee.

HB 4149 directs OHA to study what it needs and how to pay for the proposals in the Alcohol and Drug Policy Commission’s Strategic Plan. The House committee is waiting on amendments and hopes to send the bill to Ways and Means next week.

The commission is scheduled to give final approve to its’ strategic plan on February 13.

HB 4040 – Family Treatment Court

“We know that if we can prevent and treat family trauma early, then we can reduce the negative consequences that are so costly to address if children remain or must return to foster care, or their parents commit crimes that require the intervention of the criminal justice system,” says Oregon Chief Justice Martha Walters.

This bill establishes family treatment courts in Coos, Clackamas, Douglas, Jackson and Marion counties. Their purpose is to guide child welfare-involved parents into treatment while providing intensive judicial supervision. According to the Department of Human Services, 75% of foster placements in Oregon involve substance use disorder.

A formal evaluation of Washington state’s family treatment courts found that they helped prevent child abuse, neglect and further arrest, as well as increased the likelihood of reunification. Researchers calculated a \$10,320 savings per participant.

The bill is scheduled for a work session next week.

HB 4029 – Nonprofit Hospitals Respond to Federal Public Charge

This bill prevents nonprofit hospitals and clinics from requiring Medicaid enrollment before accessing charity care.

Recent changes in the federal government’s public charge rule discourage legal immigrants seeking a pathway to citizenship from enrolling in Medicaid, nutrition assistance or federal housing support. This forces “immigrants to choose between their future citizenship and access to (Medicaid),” Felisa Hagins, SEIU, told the House Health Committee.

Hospitals said charity care should be the payer of last resort, but green card holders and other immigrants with certain types of visas may no longer be eligible for Medicaid. This will allow them to receive charity care.

SB 1551 – CCO Financial Reporting

Sen. Laurie Monnes Anderson (D-Gresham) says she introduced this bill because legislators and the public need more information on how CCOs spend the billions of tax dollars they receive to provide Medicaid services.

But Jeremiah Rigsby, CareOregon, said the bill needs amending to make sure trade secrets about CCO contracts with providers are not released.

Josh Balloch, AllCare, asked for a change in how CCO reserves are calculated. He said the CCO 2.0 contract raised their reserves from \$16 million to \$24 million, taking away money from services to patients.

The only noncontroversial component of the bill extends the Task Force on Universal Health Care to November 1, 2021.

HB 4132 – Student Health Surveys

This bill codifies the Oregon Health Authority's student health surveys given to children over the age of 10, and ensures the agency has adequate funding to conduct the survey. It is voluntary and anonymous.

"The data provides very important assessment... around behavioral interventions, school wellness policies, suicide prevention programs, anti-bullying efforts, mental health interventions, substance abuse prevention, intervention programs and ultimately evidence-based decision making for school districts," says Sen. Rob Wagner (D-Lake Oswego).

The Oregon Christian Education Association and other parents' rights organizations oppose the bill. They say they could be neutral if private and home schools were exempted.

HB 4114 – Dialysis Coverage

This bill will remove dialysis centers' ability to price gouge consumers and commercial insurers by prohibiting outpatient dialysis facilities from billing above the Medicare rate, says chief sponsor Rep. Andrea Salinas (D-Lake Oswego). She found a letter to Davita shareholders stating a \$1.5 billion operating profit in 2018. Advocates of the bill say that was largely from the 10% of patients on commercial insurance.

The bill also requires Medicaid and commercial insurers to cover dialysis for people with end-stage kidney disease, as well as limits copays and coinsurance to 10% of the allowed amount.

Omar Amero, Davita, says this bill will significantly reduce access to care. "This bill will upset the delicate balance of commercial insurance to public health care that allows dialysis centers to stay solvent... over half of the centers we have in Portland would no longer be viable [if this bill were to pass]."

Glen Peterson, U.S. Renal Care, another dialysis provider, says they operate a clinic in Tillamook where they provide care to just 16 patients. Without the ability to offset revenue with commercial insurance, it will be difficult for them to continue care in clinics like these.

Rep. Rob Nosse (D-Portland) asked, "What policy options could we try in lieu of this?"

The dialysis centers had no answer.

Rep. Salinas followed with, “What is the amount, if not Medicare rates, that will allow you to keep your doors open?”

“I believe the free market mechanism that we negotiate rates with payers is working,” replied Peterson.

The Oregon Medical Association and the emergency room physicians testified in opposition to the bill, specifically because they are concerned about the precedent it would set.

In an uncommon display of unity, commercial insurers and SEIU’s lobbyists testified in support. “We are normally very supportive of market forces. But this is not a normal market. You have requirements that we have adequate provider coverage across the state. There used to be more competition, and now we see more consolidation,” said Cambia’s Vince Porter.

Rep. Cedric Hayden (R-Roseburg) jokingly asked, “Does Cambia support Medicare for All in order to control rates? And does SEIU support putting their members in CCOs to control rates?”

HB 4115 – Healthcare Interpreters

This bill requires the use of qualified or certified healthcare interpreters.

Maria Michalczyk, Healthcare Interpreters Association, said, “I’ve seen many grave errors due to misinterpretation,” including signing consent for the wrong surgery and taking the wrong dose of medication.

The Oregon Health Authority provides 60 hours of training for interpreters and maintains a registry of nearly 700 interpreters. But some agencies do not necessarily work with these certified or qualified interpreters. This bill is designed to address that.

The bill’s sponsor, Rep. Andrea Salinas (D-Lake Oswego) says she will amend the bill to remove healthcare providers, making it clear that the companies providing healthcare interpreters are responsible for hiring those on the OHA registry.

HB 4110 – Health Insurance Grace Periods

Insurance commissioner Andrew Stolfi said health insurance policy holders lose coverage when they are confused about the deadline or exact amount due. He gave a few examples:

- A consumer missed a payment deadline by two days due to health problems and lost her coverage.
- Another paid \$3 a day after it was due and lost their coverage.

Current law only requires a 10-day grace period for past-due payments and no grace period for first premium payments. This bill requires a 30-day grace period for late payments and a 15-day period for initial binder payments.

Stolfi said this will make it easier for Oregon consumers to pay their premiums, get covered and stay covered.

HB 4146 – OEBC for Part-Time Faculty

Supporters of HB 4146 testified that 80% of courses at Oregon’s community colleges and universities are taught by part-time and adjunct instructors. Sometimes described as freeway flyers, these faculty travel between colleges trying to cobble together full-time work.

Sarah Chivers, PhD, who teaches at a number of Portland-area colleges, said, “We teach more than full-time faculty. We are paid less. We have no benefits and no security.”

HB 4146 would require part-time faculty who qualify to pay 10% of the OEGBB premium. The state would cover the rest at an estimated cost of \$8 million to \$9 million per year.

SB 1527 – Noncompete Agreements

The Senate Labor Committee heard from a number of workers who were required to sign noncompete agreements even though they did not meet the income threshold to be eligible under Oregon law. Korrina Junge, Eugene, said, “This bill would void that illegal noncompete agreement.”

Martin Ramirez, who was making \$18.50 an hour replacing windshields, said, “Employers are using noncompete agreements to scare us into not leaving. We don’t know that we are allowed take our skills to another employer who will treat and pay us better or we believe that we cannot start our own businesses.”

Current law says when ineligible employees sign noncompete agreements, those contracts are “voidable” but that means they must hire a lawyer and go to court to get the noncompete thrown out. SB 1527 simply says those illegal contracts are void.

The bill also reduces the length of time noncompetes can be enforced from 18 months to 6 months. An amendment changing that to 12 months was introduced to protect employers like insurance agencies that sell 12-month policies and want to protect their client list from being poached.

HB 4013 – Kratom Regulation

Kratom comes from a tropical tree grown in SE Asia. Compounds in the plant are said to relieve pain and provide an energy boost. Kratom is sold in capsules, powder and extract. The leaves are chewed, or can be dried and brewed as tea. An estimated 15 million Americans use kratom.

Currently, kratom is legal and can be ordered on the internet or purchased in neighborhood stores.

Rep. Bill Post (R-Kaiser) said, “What is being sold as kratom in Oregon isn’t necessarily pure kratom.”

HB 4013 would task the Oregon Department of Agriculture with developing rules about testing, labeling and regulating kratom. It would also prohibit kratom sales to anyone under age 21.

Laura Romney, American Kratom Association, says kratom can be an alternative to opiates for pain patients.

Jenn Lauder said her employer PDX Aromatics is the largest kratom vendor in Oregon. They support HB 4013 to regulate kratom, saying it would protect the industry.

Six states have banned kratom. Four states regulate it in a fashion similar to this bill.

SB 1535 – Rx Rebates and Markups

This bill extends the prescription drug pricing task force, which is scheduled to sunset at the end of 2020, to the end of 2022. The task force is “looking for levers to address Rx price increases.”

HB 4005 (2018) required pharmaceutical companies to report price increases that exceed 10%. This bill clarifies that the 10% applies to cumulative increases within a calendar year. Rep. Rob Nosse (D-Portland) said, “This will make the ability to game the process of reporting more difficult.”

Pharma objects to language in the bill that it says jeopardizes companies’ intellectual property. Sen. Lee Beyer (D-Springfield) responded, “I think these are needed provisions and are in the public interest.”

HB 4127 – School-Based Oral Health

Rep. Alyssa Keny-Guyer (D-Portland) and Rep. Cedric Hayden (R-Roseburg) are sponsoring HB 4127. Hayden says about 10% of children in Oregon have an epidemic of oral health disease and that one of the best places to reach children is at school, a touch point he believes is underutilized.

HB 4127 does three things to promote school-based oral health:

1. Will include dental health in existing curriculum the next time it is renewed.
2. Directs OHA to establish and maintain a Community Dental Health Coordinator pilot program to support school-based oral health programs.
3. Requires OHA to accept claims to reimburse costs related to care coordination surrounding school-based oral health services.

In 2018, about 60% of children on the Oregon Health Plan received at least one dental service, says Tom Holt, Oregon Community Foundation. “Of those, about 8% had their *only* visit in a school setting.”

The hearing was cut short due to time constraints, though there was no opposition.

HB 4107 – Businesses Must Accept Cash

Rep. Janelle Bynum (D-Portland) says stores and restaurants that refuse to accept cash are guilty of “backdoor discrimination,” policies that appear neutral but result in unjust outcomes for some Oregonians. She said, “Not accepting cash discriminates against people who do not have a bank account.” She went on to say, “16% of African-Americans and 14% of Hispanics do not have a bank account, compared with 3% of white Americans.”

The cash requirement is included in a broad discrimination bill that includes both hair discrimination and payment discrimination.

Some business groups raised concerns about the bill. Anthony Smith, NFIB, said owners make business decisions to address efficiency, safety and security, and customer experience. He went on to say, “Maybe it’s not the best thing for government to be deciding how businesses operate.”

Professional Insurance Agents of Oregon/Idaho (PIA) testified in opposition saying, “Insurance agents are prohibited from taking cash for certain types of policies, such as some Medicare and individual health insurance plans.” She asked for an amendment to exclude insurance agents or those prohibited from taking cash.

HB 4124 – Campaign Contribution Limit Task Force

This bill would create a 17-member task force to recommend a comprehensive campaign finance reform system to the 2021 legislative session.

Dan Meek, an attorney and campaign finance reform activist, criticized the task force’s makeup saying, “11 of the 17 members have a financial interest in large contributions.”

The bill also addresses what happens if the State Supreme Court rules on a current case dealing with Portland’s campaign contribution limits in the middle of the current campaign cycle. If the court rules that Measure 47, passed by voters in 2006, can go into effect, candidates would be limited to \$100 per donor.

But Rep. Dan Rayfield (D-Corvallis) says that would create chaos in the middle of a campaign and disadvantage those who started their campaigns and fundraising late. He proposed July 1, 2021 as the activation date if Measure 47 becomes the new standard.

Others said Measure 47 should become effective on November 4, 2020, when this election cycle ends and the next one begins.

Historically the ACLU opposed campaign finance limits saying they violated citizens' right to free expression. But Board Member Katherine McDowell said, "In the face of growing evidence that increasing campaign costs and growth of corporate influence suppress voter participation, we have changed our position." The ACLU supports HB 4009.

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